

WILMERHALE

January 30, 2015

Mark G. Matuschak

By ECF

+1 212 937 7226 (t)
+1 212 230 8888 (f)
mark.matuschak@wilmerhale.com

Honorable Magistrate Judge Sarah Netburn
U.S. District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Street
New York, NY 10007

Re: *WebMD LLC v. Everyday Health Media LLC*, 1:14-cv-04446-LTS-SN (S.D.N.Y.)

Dear Judge Netburn:

This firm represents WebMD LLC (“WebMD”). I respectfully write on behalf of both parties, with the consent of Neal Klausner, counsel for Everyday Health Media LLC (“Everyday Health”) to provide the Court with an update on settlement and discovery pursuant to the Court’s order in our December 11, 2014 teleconference.

The parties are making progress on a potential settlement. Everyday Health has completed its informal production of documents in response to WebMD’s settlement requests. The parties have continued to discuss settlement and have confirmed a settlement conference, including high-level representatives from their respective clients, for February 2, 2015. In anticipation of this settlement conference, Everyday Health has agreed to provide access to its “Attorneys’ Eyes Only” settlement information to WebMD’s client representatives to allow for more productive and focused discussions.

As instructed, the parties are also moving forward with their litigation tasks in the event that settlement discussions are not productive. WebMD has produced over 6000 pages of discovery to Everyday Health and will produce additional documents on a rolling basis. Yahoo and Microsoft have produced documents in response to WebMD’s subpoena, and WebMD is analyzing those documents; AOL has responded that it has no relevant documents; and negotiations continue with Google. Everyday Health has produced almost 60 megabytes of discovery to WebMD and will produce additional documents on a rolling basis.

Opening expert reports are currently due on March 2, and fact discovery is scheduled to close on March 31. As discussed with the Court in December, both parties believe that a 60-day extension of the deadlines for fact and expert discovery is necessary and required. This is true even in light of the progress on litigation tasks since late December, given the holidays, and the parties’ past and continued efforts to seek a negotiated resolution. Accordingly, the parties respectfully request that the deadlines for fact and expert discovery be extended to June 1 and August 31, respectively.

WILMERHALE

Honorable Magistrate Judge Sarah Netburn
January 30, 2015
Page 2

Respectfully submitted,

/s/ Mark G. Matuschak

Mark G. Matuschak

cc: Counsel of Record